

MINUTES
VIRGINIA OUTDOORS FOUNDATION
QUARTELY MEETING OF THE BOARD OF TRUSTEES
VIRGINIA DEPARTMENT OF FORESTRY, 2ND FLOOR BOARD ROOM
CHARLOTTESVILLE, VIRGINIA
March 7th, 2007 9:00 AM

Trustees present: Chairman, Ms. Kat Imhoff, presiding; Mr. Mark S. Allen; Dr. M. Rupert Cutler; Mr. Frank M. Hartz; Mr. Charles H. Seilheimer, Jr.; and Mr. Jeffrey K. Walker. VOF staff attending: G. Robert Lee, Executive Director; Ms. Tamara Vance, Deputy Director; Ms. Leslie Grayson, Deputy Director; Ms. Martha Little, Deputy Director of Stewardship; Ms. Trisha Cleary, Executive Assistant; Ms. Sherry Buttrick, Easement Manager; Ms. Estie Thomas, Easement Specialist; Ms. Laura Thurman, Easement Manager; Ms. Jennifer Perkins, Easement Specialist; and Ms. Sara Ensley, Human Resources Manager. Also in attendance were Mr. Frederick S. Fisher, Special Assistant Attorney General and Ms. Brett Ellsworth, Assistant Attorney General.

Ms. Imhoff convened the meeting at 1:01 p.m. After introductions, Ms. Imhoff called for public comments. Mr. George Beadles of Chesterfield pointed out two errors on the Virginia Outdoors Foundation's (VOF) website and commented that he looked forward to the diversion discussion. It was determined that agenda item number 19, the easement proposal for Zirkle, would be removed from the agenda. Mr. Allen recommended that only the attendance of Board members and staff be listed in the minutes. Visitors to Board meetings should only be included in the minutes when they address the Board. Ms. Imhoff noted that easement proposals would be taken out of order to accommodate landowners and attorneys attending the meeting. Dr. Cutler moved that the order of business and minutes of the January meeting, with noted changes, be approved. Mr. Walker seconded and the motion passed unanimously.

Dr. Cutler asked for a progress report on the Memorandum of Understanding (MOU) with the Virginia Department of Forestry (DOF). Ms. Little said that VOF had received the MOU with DOF's changes and Doug Wetmore had distributed it to staff for comment. She expressed hope that the completed MOU would be presented to the Board in June for final approval.

Ms. Imhoff then asked Mr. Lee to give the Executive Director's Report to the Board. Mr. Lee began his report by saying that this meeting would consider half of the number of easements and acres considered at the April 2006 meeting. He added that he believed that the phenomenal number of easement projects in 2006 would prove to be an anomaly due to the changes in Virginia law. Mr. Lee reported to the Board that he had recently participated in land conservation exercises in Southern Virginia. He said that there are a number of substantial open space land properties in the area and plans to expand the VOF's activities in the region to take advantage of those opportunities. He updated the Board on the FY08 budget process and said that it appeared VOF would receive a one time increase of \$950,000 from the General Assembly. He said that these funds would be used to hire staff to aid in achieving the Governor's 400,000 acre goal. Ms. Imhoff asked Mr. Lee to explain the process being followed to prioritize easement opportunities. He explained that in order to better meet the Governor's goal,

easements on properties over 100 acres would be processed by staff as usual. Properties of between 40 and 100 acres require peer review and approval by the easement division Deputy Directors before staff should begin to work on them. Any property under 40 acres requires the review and approval by the easement division Deputy Directors and the Executive Director. As always, proposed properties would be considered with analysis of the conservation values of each property. Mr. Lee also noted that this policy could be revisited at the June Board meeting. Mr. Lee reported that he anticipated the redesigned website would be online in April. He also said that the Spring 2007 Newsletter is well underway. He reported the interviews for the Richmond easement and stewardship positions would occur in late March and the Blacksburg easement position had been advertised. He also announced that a former VOF employee, Kristin Ford, had been hired to help with the easement workload in the Charlottesville and Staunton offices. He concluded with a recognition of the considerable contribution that Kat Imhoff had made to the work of the VOF Board of Trustees noting her departure from the Board. He expressed the appreciation of the Board and staff to her for her tireless efforts on behalf of land preservation in the Commonwealth. Ms. Imhoff thanked Mr. Lee for his kind words.

Ms. Imhoff called on Leslie Grayson for her Deputy Director's report. Ms. Grayson said that the Warrenton office is piloting a project with the Piedmont Environmental Council (PEC) where a PEC staff person is working on an easement in more detail in order to see if that assistance will help alleviate the VOF easement work load. She explained that in the past, PEC would educate the public and pass leads on to VOF. She said that the landowner was aware of the pilot nature of PEC's involvement and was happy to cooperate in the process. She said she hoped the Board would see the pilot easement in June. Ms. Grayson also told the Board that the Warrenton office is working with the County Forester of Fauquier County to have him monitor Best Management Practices (BMP) on VOF eased forest properties and notify VOF if he finds they are not being followed. She also said that local Soil and Water Conservation Districts will refer eligible streams on VOF eased properties for program funds to improve water quality. She updated the Board on two utility right of way projects. She distributed illustrations for the proposed Dominion Power transmission line and the Columbia Gas Transmission eastern market expansion project. Ms. Grayson then distributed the Virginia Land Conservation Foundation (VLCF) criteria for land preservation tax credits valued over \$1 million. She explained that there were eight categories of conservation value listed in the document. (See attachment #1.) The criteria also define public benefit and general water quality and forest management. She explained that if a donor is claiming a high value tax credit, there may be certain restrictions associated with the declared conservation value in order to qualify for the tax credit and there may be an application process that landowners will need VOF help completing. Mr. Lee added that the Department of Conservation and Recreation (DCR) will perform a pre-review of easements that the Board of Trustees has approved that may exceed \$1 million in tax credits. Ms. Imhoff asked that staff let the Board know when an easement could reach the \$1 million threshold and asked that staff put a link on the VOF website to the criteria for interested landowners.

Ms. Vance reported that, in the past, the Board had instructed staff that, if after consultation with the Executive Director, an easement had to be signed during the end of the year rush that was slightly less restrictive than the easement approved by the Board, such easement could be signed and reported to the Board at the following meeting. She reported that two such easements had

been signed at the end of 2006. The first was the Sisters of the Blessed Sacrament at Belmeade easement that had a pre-existing lease allowing for the grazing of horses in a portion of the riparian buffer. The second was the Chastain property in Goochland County that has a wetlands mitigation obligation where a section of the buffer will be weaker than the buffer approved by the Board. Sherry Buttrick explained the situation on the Chastain property and it was determined that the easement was not weakened as one conservation value was being substituted for another and staff could go ahead with signing and recordation. After discussion, the Board determined that, in the future, staff should bring any condition that would weaken an easement to the Board for reconsideration and approval. Only improvements or neutral changes may be executed administratively. The Board expressed some reservations about the Sisters of the Blessed Sacrament change.

Martha Little reported that, at the end of January 2007, Doug Wetmore, Stewardship Specialist – Charlottesville, coordinated a day and a half training session with the Department of Forestry for VOF easement and stewardship staff that had been very well received.

Ms. Imhoff recognized Tamara Vance for a discussion on the VOF co-holding policy. Ms. Vance presented a brief history of VOF co-holding easements with other entities.

Ms. Imhoff turned the meeting over to Mark Allen and recused herself from the discussion on the request of the Piedmont Environmental Council (PEC) to have VOF co-hold easements on Montpelier due to her husband's involvement in the project. Sherry Buttrick presented the request for VOF to co-hold two of the four conservation easements planned for Montpelier. Catherine Scott of PEC added detail on the two parcels of open space around Montpelier. John Moore of PEC described the importance of protecting one of the last examples of piedmont old growth forests in the state. After discussion, the Board agreed that VOF would consider co-holding the open-space easements on Montpelier with PEC if the details of the easements conform to VOF guidelines and template.

Ms. Imhoff rejoined and resumed presiding over the meeting. She called for consideration of the Franklin County Public Schools request for additional land for a bus entrance for the new school. Tamara Vance explained that in 2001 the Franklin County Public Schools asked for a strip of land for a bus lane for a proposed new school. The requested land had been placed under a conservation easement in 1998. The owners, the Hurt Family, agreed to donate an additional 9.6 acres into the easement for the diversion of .87 acre to the county for the bus lane. The County is now ready to build the school and has found that an additional strip of three quarters of an acre of land is necessary for proper drainage next to the bus lane. Fred Fisher, Special Assistant Attorney General, has agreed that the additional land can be given to Franklin County Public Schools. In an email dated February 23, 2007, he says that the original diversion met the requirements of Section 10.1-1704 and the land that was added to the conservation easement was ten times the area of the diverted land. He further stated that if this drainage requirement had been known when the diversion was approved, the additional land would have been included without requiring any more compensating land protection than was actually provided. In his opinion, this additional diversion is required to complete the intention of the original diversion. Ms. Vance recommended a deed of correction to provide the necessary land for the school entrance. Dr. Cutler moved to approve the deed of correction to provide the three quarters of an

acre to the Franklin County Public School. Mr. Seilheimer seconded and the motion passed unanimously.

Ms. Imhoff asked for a motion to go into closed session to discuss personnel matters in accordance with Code of Virginia § 2.2-3711 at 3:25 p.m. Dr. Cutler so moved, Mr. Hartz seconded, and the motion passed unanimously. Mr. Walker moved to conclude the closed meeting, Mr. Seilheimer seconded, and the motion was approved unanimously. Upon resuming the public meeting, a roll call vote was taken certifying that only matters covered by § 2.2-3711 were discussed. Dr. Cutler voted yes, Mr. Walker voted yes, Mr. Allen voted yes, Ms. Imhoff voted yes, Mr. Hartz voted yes, and Mr. Seilheimer voted yes.

Ms. Imhoff turned the meeting over to Mr. Allen and left for the day. Mr. Allen turned the meeting over to Ms. Brett Ellsworth, Assistant Attorney General, to conduct Conflict of Interest training.

Mr. Allen adjourned the meeting at 4:45 p.m. to be reconvened at 9:00 a.m. the following morning.

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VIRGINIA DEPARTMENT OF FORESTRY, 2ND FLOOR BOARD ROOM
CHARLOTTESVILLE, VIRGINIA
MARCH 8th, 2007 9:00 AM

Trustees present: Chairman, Ms. Kat Imhoff, presiding; Mr. Mark S. Allen; Dr. M. Rupert Cutler; Mr. Frank M. Hartz; Mr. Charles H. Seilheimer, Jr.; and Mr. Jeffrey K. Walker. VOF staff attending: G. Robert Lee, Executive Director; Ms. Tamara Vance, Deputy Director; Ms. Leslie Grayson, Deputy Director; Ms. Martha Little, Deputy Director of Stewardship; Ms. Trisha Cleary, Executive Assistant; Ms. Sherry Buttrick, Easement Manager; Ms. Estie Thomas, Easement Specialist; Ms. Laura Thurman, Easement Manager; Ms. Jennifer Perkins, Easement Specialist; and Ms. Sara Ensley, Human Resources Manager. Also in attendance were Mr. Frederick S. Fisher, Special Assistant Attorney General, and Ms. Brett Ellsworth, Assistant Attorney General.

Ms. Imhoff called the meeting to order at 9:02 a.m. After introductions, she announced that easements would be taken out of order to accommodate landowners and counsel. Ms. Imhoff then called for public comment. Sally Mann of Loudoun County presented a request for the Board to reconsider the approval of the siting of agricultural buildings on the Early property which is under a conservation easement held by VOF. Lisa Hawkins spoke representing property owners Kevin and Patty Graun of Rockingham County. She presented a brief history of the easement activity on the property and explained that she was working with VOF staff to bridge the impervious surface gap between the 1% in VOF guidelines and the 2% allowed by the Farm and Ranch Land Protection Program's Grassland Reserve Program and asked for the Board's guidance to achieve the goal of protecting this farm land with PTF funds. Tamara Vance added that staff usually works on Preservation Trust Fund (PTF) projects that exceed VOF guidelines and have exceptional conservation value. She also explained that there was a question of whether USDA FRPP funds that could be reallocated to this project or not. Ms. Vance added that there would be new funds made available through the Virginia Department of Agriculture and Consumer Services for the purchase of conservation easements in the near future. Ms. Imhoff said that since public funds would be involved, PTF projects had to be held to a higher standard.

There being no further public comments, Ms. Imhoff announced that the Board would consider agenda items 1, 8, and 9.

#1 – Arrowsmith of 399.37 acres in Middlesex County – Estie Thomas presented this proposed easement that will enhance water quality in the Rappahannock River and Chesapeake Bay by the preservation of forested shoreline along Urbanna Creek and preserve the scenic values for the boating public. She advised the Board that this easement would more than likely pass the \$1 million tax credit mark and would be revised to include tax criteria language. She added that the riparian buffer language would be revised to the latest VOF template language and amended to add language that livestock would be fenced out. She said that paragraph 3 would be amended to

add “private non-commercial” to aviation related activities. After a discussion on riparian buffer language, Dr. Cutler asked staff to look into the science of erosion control on stream buffers and include language in the easement template “cook book”. Dr. Cutler moved to approve the easement as amended. Mr. Seilheimer seconded and the motion passed unanimously.

#8 – Golian of 213.07 acres in Rockbridge County – The easement on this property will help protect water quality with riparian buffers on Falling Run and the South River and the viewshed from State Route 608 with VOF review and approval of any dwelling built within the designated viewshed area. Laura Thurman presented the easement with the following corrections; the no-plow riparian buffer on the two seasonal streams is amended to 35 feet and the aggregate cap on dwellings reduced to 15,000 square feet. Staff recommended approval of the easement with a limit of two parcels, 15,000 square feet on dwellings, and siting approval of the proposed riding ring. Ms. Imhoff moved to approve the easement as amended, Mr. Hartz seconded, and the easement was approved unanimously as amended.

#9 – Grattan’s “Millstream Farm” of 105.17 acres in Albemarle County – This easement will contribute to water quality of the Rivanna River and Chesapeake Bay and to the scenic protection of State Route 743, Advance Mills Road. Sherry Buttrick presented two changes in the proposed easement. She said the size of the main dwelling had been reduced from 5,000 square feet to 4,500 square feet and the riparian buffer language will be amended to include the provision of no degradation by livestock. Ms. Buttrick recommended approval of the easement with the stated changes. Mr. Allen asked if VOF had approval of any new driveway. Ms. Buttrick said that VOF would be notified and consulted. After discussion, Mr. Hartz moved to approve the easement with the stated changes and VOF approval of any new driveway. Dr. Cutler seconded and the easement was approved unanimously as amended.

#2 – Barrett of 375 acres in Giles County – Tamara Vance presented the Barrett proposal which will contribute to the water quality of Walker Creek and help protect the scenic beauty of Big Walker Creek Valley. Ms. Vance recommended approval of the easement contingent on the resolution of an outstanding mineral rights issue. Dr. Cutler questioned the riparian buffer language and Ms. Vance said the contradictions would be resolved with revised language. Dr. Cutler moved to approve the easement with revised buffer language and contingent upon resolution of the mineral rights issue. Mr. Walker seconded and the easement was approved unanimously as amended.

#3 – Bishop of 112.4 acres (listed as 107 acres in the agenda) in Montgomery County – This easement would protect important farmland in a rapidly growing area of Montgomery County and will also protect the views for the driving public along Fairview Church Road. Tamara Vance distributed a revised proposal including the previously omitted acreage including the existing dwelling. The revised proposal will allow two dwellings on two parcels on 112.4 acres instead of the originally stated three dwellings on two parcels on 107 acres. Mr. Seilheimer moved to approve the revised proposal, Mr. Hartz seconded, and the amended easement was approved unanimously.

#4 – Brooks of 78.14 acres in Rockbridge County – This easement will contribute to the water quality of the James River and Chesapeake Bay with riparian buffers on Cedar Creek and the

unnamed tributary on the property. Laura Thurman presented the proposal with two changes; the secondary dwelling will be within 300 feet of the primary dwelling and the riparian buffer has been changed to a no-plow buffer. After discussion, it was decided that the last sentence should read, "Livestock shall be fenced out of Cedar Creek *and* the tributary on the property." Mr. Hartz moved to approve the easement with the stated changes, Mr. Walker seconded, and the easement was approved unanimously as amended.

#5 – Carter’s “Shelba” of 53.5 acres in Essex County – An easement on this property will contribute to protecting the rural character of a farming region and protect a colonial era dwelling with a no willful demolition clause. Estie Thomas recommended approving the easement with VOF siting approval of the secondary dwelling. After discussion it was decided that the secondary would be limited to 1,000 square feet with VOF siting approval. Mr. Allen moved to approve the easement as amended, Dr. Cutler seconded, and the motion passed unanimously.

#6 – Collins’ “Gray Fox Farm” of 100 acres in Rappahannock County – The proposed easement will contribute to the protection of the water quality of the Rappahannock River and the Chesapeake Bay with a 500 foot buffer on the Rappahannock River and 100 foot buffer on Shootz Hollow. The easement will also protect the scenic views from Skyline Drive, the Appalachian Trail, and the Shenandoah National Park. Jennifer Perkins presented the easement saying that the owners already have a Forest Management Plan and “grantee” approval could be added to the Management of Forest section if the Board wanted. Dr. Cutler asked that the language be added. Dr. Cutler moved that the easement be approved with the addition of “grantee” approval to the Forestry language, Mr. Allen seconded, and the easement was approved unanimously as amended.

#7 – Franklin’s “Farmers Hall” of 1,284.76 acres in Essex County – This easement will contribute to the water quality of the Rappahannock River and Chesapeake Bay with no plow buffers on Farmers Hall Branch and the edge of Margaret Lee Swamp. The easement will also protect significant productive agricultural lands. Estie Thomas told the Board that the tax criteria language would be added to the easement and recommended approval. Mr. Seilheimer moved to approve the easement with the additional language, Mr. Walker seconded, and the easement was approved unanimously as amended.

#10 – Haffner/Sanford – “Ingleridge” of 126.06 acres in Albemarle County – This easement will contribute to the water quality of the Chesapeake Bay with riparian buffers on Ivy Creek, a major tributary to the South Fork Rivanna Reservoir, and any other streams or ponds on the property. This property has 2,561 linear feet on State Route 654 and protects the scenic views for the driving public with a designated no build setback. Sherry Buttrick recommended approval as presented. Mr. Walker moved to approve the easement, Mr. Seilheimer seconded, and the motion passed unanimously.

#11 – Lower Family Partnership of 161 acres in Bedford County – This easement would expand the Jefferson National Forest buffer area and protect the scenic views from the Blue Ridge Parkway. The easement also helps protect the water quality of Hunting Creek, a Class II wild trout stream, with a riparian buffer. Tamara Vance told the Board that the landowner wanted to

make one change in the riparian buffer language to allow one building not to exceed 100 square feet in ground area for a small bath house 90 feet away from the stream. Mr. Seilheimer moved to approve the easement with the requested change, Mr. Allen seconded, and the easement was approved unanimously as amended.

#12 – Mann “Camp Cawthon” of 122.64 acres in Rockbridge County – This easement will contribute to the water quality of Buffalo Creek and the Maury River with riparian buffers and will protect open space values for the county. Laura Thurman reported that the landowner wanted to add a provision that outdoor lighting would be shielded and directed toward the ground. Mr. Hartz questioned the last sentence in the Riparian Buffer language and Ms. Thurman said that it would be changed to, “Livestock shall not be allowed to graze in the buffer strip.” Mr. Walker moved to approve the easement with the stated changes, Mr. Seilheimer seconded, and the easement was approved unanimously as amended.

#27 - Ms. Imhoff called for consideration of the Fabrychy request (# 27) for an amendment to their easement approved by the Board in June 2006. Tamara Vance presented the request for a secondary dwelling on the 95 acre easement. She explained that the landowners wanted to limit the existing dwelling to its current size and be allowed a separate secondary dwelling of the same size. Ms. Vance recommended against the request because the amendment would weaken the easement but proposed using the allowed expansion square footage for the secondary dwelling on the condition that a new appraisal prove that there was no financial gain to the landowner and no diminution of the conservation easement. Mr. Fabrycky addressed the Board. After discussion, Ms. Imhoff moved to deny the request and instruct staff to spend no more time on the request, Mr. Walker seconded, and the motion passed with Mr. Allen and Mr. Seilheimer voting against the motion.

#26 – Gum Bottom, Inc. of 42.16 acres in Spotsylvania County for Reconsideration – Ms. Imhoff recognized Robert H. Lamb who spoke to the Board requesting a change in the approved but unrecorded easement to amend the size of the allowed dwelling from 4,500 square feet to 5,800 square feet. Mr. Lamb also wanted to match the riparian buffer with the 35 foot buffer on the “Marengo” easement property. Mr. Seilheimer moved to approve the requested change in dwelling size to 5,800 square feet, a 35 foot riparian buffer that would exclude livestock, and with the understanding that the easement would conform to the newly adopted VOF easement template language and with the understanding that this amended easement supersedes the original unrecorded easement. Dr. Cutler seconded the motion. The motion was approved unanimously.

#13 – Plecker of 1,051.16 acres in Bath County – This easement will contribute to the water quality of the Cowpasture River and protect shale barrens that are the habitat for two endangered vascular plants and two dragonflies. Laura Thurman said that the landowner has requested that the riparian buffer be designated as no plow and to be allowed to plant wildlife plots within the buffer as long as they were 35 feet from the Cowpasture River. He has also requested two non-commercial docks. Ms. Thurman corrected the fourth paragraph of the Buildings and Structures clause to read, “To protect the scenic quality of the Property, only one additional dwelling . . .” Ms. Thurman recommended approval of the easement with the described changes and the inclusion of a no disturbance provision to protect the shale barrens on the property. Dr. Cutler

moved to approve as recommended by staff, Mr. Seilheimer seconded, and the easement was approved unanimously as amended.

#14 – Rock Builders, Inc. of 435.28 acres in Clarke County – The easement proposed for this property would contribute to the buffer of public lands including Sky Meadows State Park and the Appalachian Trail. It will also contribute to the water quality of the Shenandoah River and the Chesapeake Bay with riparian buffers on Wrights Branch. Laura Thurman distributed an aerial photo of the property explaining that there is an existing gas pipeline with a 50 foot right of way on the property and explained that Columbia Gas Transmission is requesting a 70 foot right of way along the existing pipeline. Ms. Thurman also said the landowners are requesting one secondary for each parcel of 600 square feet or smaller and explained that the Grading, Blasting, and Mining language had been changed to the newly adopted VOF template language. After discussion, it was decided to include standard “salubria” language if required to accommodate the gas company. Mr. Seilheimer moved to approve the easement with the described changes with a request to the gas company to paint the pipeline vents a neutral color. Mr. Hartz seconded and the amended easement was approved unanimously.

#15 – Rockfish Realty, LLC of 104 acres in Nelson County – The proposed easement will contribute to the water quality of the Rockfish River and the Chesapeake Bay with a 100 foot riparian buffer and protect the scenic views with a 200 foot building setback on State Route 722. Sherry Buttrick recommended approval of the easement as presented. Mr. Seilheimer moved to approve the easement, Mr. Walker seconded, and the motion passed unanimously.

#16 – Walker of 71.21 acres in Augusta County – This property is adjacent to an existing VOF easement. This easement will contribute to the open space values of the area and preserve a working farm. Laura Thurman recommended approval of the easement as presented. Mr. Seilheimer moved for approval, Mr. Walker seconded, and the easement was approved unanimously.

#17 – Wilson’s “Algoma Tract” of 878.61 acres in Franklin County – The easement will contribute to the protection of the scenic views from the Blue Ridge Parkway and Callaway Road, a state designated Scenic Byway. The easement will contribute to the water quality of the area with a riparian buffer on Green Creek. Tamara Vance reported to the Board that VOF Guidelines recommend seven parcels on 800 acres and that the landowners are requesting eight parcels. To compensate for the additional parcel, the landowners are offering a 500 foot building setback from Callaway Road for any new dwellings. Ms. Vance recommended approval as presented. Dr. Cutler moved for approval of the easement, Mr. Walker seconded, and the easement was approved unanimously.

#18 – Zentz of 103.04 acres in Rockbridge County – This easement will contribute to the water quality of Walker Creek and the Maury River, the municipal water source for the city of Lexington. It will also help preserve the open space values of the Goshen-Little North Mountain Wildlife Management Area. Laura Thurman advised the Board that the forestry language would be changed to VOF approval of the forestry management plan. Mr. Seilheimer moved to approve the easement with the forestry change, Mr. Walker seconded, and the easement was approved unanimously as amended.

#19 – Zirkle was pulled from the agenda at the request of the landowner..

#20 – Sterrett of 49.34 acres in Rockbridge County – This easement will protect property in the Middlebrook/Brownsburg corridor and contribute to the rural open space character of the county. It will contribute to the water quality of the area with riparian buffers on Hays Creek, a major tributary of the Maury River. Laura Thurman said that the only change to the easement as presented would be to qualify the approval of a larger dwelling with the criteria restricting the view from the public road. Dr. Cutler moved to approve the easement with the suggested change, Mr. Hartz seconded, and the easement was approved as amended.

The meeting broke for lunch. Ms. Imhoff called the meeting to order at 12:15 p.m. to consider Preservation Trust Fund proposals. It was determined that the Board would consider cost only projects first (#22, #24, and #25). Purchase projects #21 and #23 would be considered last.

#22 – Barber “Riverdale Farm” of 50 acres in Richmond County – The easement on this property would contribute to the water quality of the Rappahannock River and the Chesapeake Bay by protecting 3,100 feet of tidal shoreline. Estie Thomas presented the request of \$5,500 for costs only. She explained that if the property survey runs through an existing barn, the easement will need to allow for one additional barn. Dr. Cutler moved to approve the easement and funds as presented, Mr. Seilheimer seconded, and the motion passed unanimously.

#24 – Harris of 124.04 acres in Rockingham County – This easement will contribute to the water quality of the Shenandoah River with a riparian buffer on Linville Creek. It will also protect productive farmland and preserve the views for the driving public on two roads. Laura Thurman presented the request for \$7,000. Mr. Seilheimer moved to approve the easement and funds, Dr. Cutler seconded, and the motion was approved unanimously.

#25 – Kerr of 174 (+/-) acres in Rockbridge County – This easement will protect farm and forest land and contribute to the water quality of Whistle Creek, a tributary of the Maury River. This property has been identified by the Virginia Department of Conservation and Recreation’s Division of Natural History as lying within the drainage area of three named caves, Tolleys Limekiln, Bathers, and Lexy Spring. Laura Thurman informed the Board that there would be no elevation restriction for the second dwelling but VOF has siting approval. She also said there is no exempt area in the riparian buffer, the buffer will be amended to 35 feet. Mr. Seilheimer moved to approve the easement as amended and the requested funds of \$7,500. Dr. Cutler seconded and the funds and easement as amended were approved unanimously.

#21 – Bach’s “Sycamore Hill Farm” of 128 acres in Caroline County – The preservation of this property will help protect the water quality of the Mattaponi River, York River, and the Chesapeake Bay by protecting tidal shoreline, non-tidal wetlands, and the associated forested uplands. The Mattaponi River is the habitat for the globally rare mussel species the Eastern Lampmussel (*Lampsilis radiata*). Estie Thomas said that the landowners had changed the size of the main dwelling to 4,000 square feet, the barn size not to exceed 20,000 square feet, and added a provision to shield outdoor lighting. Mr. Seilheimer said that the PTF committee members had requested an appraisal because they found it difficult to award funds with no basis to back the

decision. Ms. Thomas provided the coversheet of the appraisal. Mr. Seilheimer reported that the appraisal for the easement came in at \$970,000 and the owners are requesting 100% of the value to be shared between the Preservation Trust Fund (PTF) and Farm and Ranch Land Protection Program (FRPP). Mr. Seilheimer recommended approving 25% to 30% of the appraised value. After discussion, Estie Thomas recommended approving part of the requested funding. Mr. Seilheimer suggested that the Board consider this easement and funding request in two separate motions. Mr. Seilheimer moved to approve the easement with proposed changes, Dr. Cutler seconded, and the easement was approved unanimously as amended. Tamara Vance explained that FRPP would contribute 50% of the appraised conservation value, requiring a 25% contribution from another entity, and allows the landowner to donate 25%. After discussion, Mr. Seilheimer moved to approve \$250,000 in PTF funds, Dr. Cutler seconded, and the funds were approved with Mr. Walker and Mr. Allen voting against. Mr. Walker said he thought it was too much taxpayer money to expend under the circumstances. Mr. Allen commented that he would never spend his own money without a full appraisal and he would not spend the taxpayer's money that way.

#23 – Copeland's "Charlton Hill" of 89.19 acres in Essex County – The preservation of this property will protect mixed hardwood forest and an extensive tidal marsh system on Piscataway Creek, a tributary of the Rappahannock River and the Chesapeake Bay. This property is home to Sensitive Joint Vetch, a marsh plant that is on the state and federal list of threatened and endangered species. Estie Thomas reported that the U.S. Fish and Wildlife Service had performed extensive studies on the property and had wanted to buy the property for neo-tropical songbird habitat. Ms. Thomas explained that the Chesapeake Bay Foundation is requesting \$200,000 from the Virginia Land Conservation Fund and The Nature Conservancy is contributing \$100,000 from the aquatic resources trust fund due to the marsh and existence of the Sensitive Joint Vetch on the property. The landowner is requesting \$200,000 from PTF. Mr. Seilheimer suggested that this easement and funding be considered in two motions. He moved to approve the easement as presented, Dr. Cutler seconded, and the motion passed unanimously. Ms. Thomas presented the PTF request. After discussion, Mr. Seilheimer moved to approve the requested \$200,000, Mr. Walker seconded, and the motion passed with Mr. Allen voting against due to an incomplete five-year old appraisal.

Ms. Imhoff asked the Board to discuss the policy staff should follow regarding appraisals on PTF purchase proposals. After discussion, the Board agreed by acclamation that full purchase PTF requests would have to be accompanied by a preliminary or full appraisal report in the future.

Ms. Imhoff then requested that staff inform the Board of the process followed to determine how requests for easements are handled. Ms. Grayson reported that for a project of 40 to 100 acres, staff must have approval of both easement Deputy Directors before going forward with the project. She explained that the Deputy Directors expect staff to do enough preliminary work to determine multiple conservation values and know the type of restrictions the landowner is willing to place on the property. For properties under 40 acres, staff must meet the same requirements and get the approval of the Executive Director. After discussion, Ms. Imhoff recommended that the Board check in with staff and review easement procedures at all future meetings until the demand no longer exceeds staff resources. Mr. Walker requested that staff compose a brief summary of projects accepted and declined so the Board could stay apprised of

the easement climate. Ms. Vance agreed to do so. Ms. Imhoff asked that the current guidelines and process be placed on the VOF website.

Ms. Imhoff announced that Bob Lee had received a memo from the Governor appointing the Honorable Molly Joseph Ward of Hampton to fill the unexpired term of Kat Imhoff and appointing Frank M. Hartz, III to serve as Chairman.

Mr. Hartz presented Ms. Imhoff with a token of the Board's appreciation for her service.

Ms. Imhoff adjourned the meeting at 1:30 p.m.

Respectfully submitted,

Patricia A. Cleary
Executive Assistant

VIRGINIA LAND CONSERVATION FOUNDATION
Land Preservation Tax Credits – Conservation Value Review Criteria
Adopted November 21, 2006

This document sets out the criteria adopted by the Virginia Land Conservation Foundation, pursuant to Virginia Code § 58.1-512(D)(3), that the Director of the Department of Conservation and Recreation (DCR) will use to verify the conservation value of donated land or conservation easements or other less-than-fee interests in land that result in tax credit applications for \$1 million or more.

Donors whose applications for tax credits are verified for conservation value by DCR should be aware that they remain responsible for full compliance with applicable federal and state requirements. Donations certified as compliant with the DCR criteria will remain subject to later audit by the Virginia Department of Taxation for items not covered by the criteria (notably, but not limited to, valuation standards). In addition, donors claiming federal tax incentives will remain subject to audit by the Internal Revenue Service.

Donations of land in fee simple

To qualify for a tax credit, any donation of a fee simple interest in real property to a public or private conservation agency (including a bargain sale) that involves a tax credit application for \$1 million or more must be documented with adequate information demonstrating that the agency's ownership of the land provides conservation value to the Commonwealth in accordance with the requirements of Va. Code § 58.1-512.

Donations of less-than-fee interests in land

To qualify for a tax credit under Virginia Code § 58.1-512, any donation of a less-than-fee interest in real property (known more commonly as a "conservation easement") that involves a tax credit application for \$1 million or more must meet the conservation values criteria set out in the sections below:

- Conservation purpose;
- Public benefit; and
- General water quality and forest management.

A. Conservation Purpose: The donated land or conservation easement must be conveyed for at least one of the following purposes, pursuant to Virginia Code § 58.1-512(A) and Internal Revenue Regulations § 1.170A-14. Each category within this section includes "safe harbors" that will meet the conservation purpose for that category.

Donations of land or conservation easements expressly given for one or more conservation purposes outlined in this section of the Criteria (as listed below in A.1 through A.8) that are accepted or approved by the Virginia Outdoors Foundation, the Department of Historic Resources, the Department of Forestry, the Department of Conservation and Recreation, or the Department of Game and Inland Fisheries will be presumed to meet the conservation purpose contained in this section.

1. Agricultural Use. A land area of five contiguous acres or more devoted to production for sale of plants or animals under standards prescribed by the Commissioner of Agriculture and Consumer Services, or land devoted to a soil conservation program under an agreement with an agency of the federal government.1

a. The following lands will meet the safe harbors for conservation purpose for the agricultural use category.

(1) Land that a county, city or town has designated as real estate devoted to agricultural use or real estate devoted to horticultural use for purposes of use value assessment and taxation pursuant to Virginia Code § 58.1-3230.

(2) Land that is part of an agricultural or agricultural and forestal district pursuant to Virginia Code § 15.2-4300 or § 15.2-4400.

(3) Land that the governing body of any county, city or town, with the cooperation of the United States Department of Agriculture, has designated as important farmland within its jurisdiction pursuant to Virginia Code § 3.1-18.5(B).

b. Other lands will meet the conservation purpose for this category, if the taxpayer demonstrates the conservation value of the land for agricultural uses.

2. Forestal Use. Land used for tree growth and maintained as a forest area.

a. Land used for tree growth means an area of at least 20 contiguous acres from which livestock has been excluded and that meets one of the following conditions:2

(1) The land contains existing, well distributed, and commercially valuable trees. Land used for tree growth that has been recently harvested of merchantable timber, is regenerating into a new forest, and has not been developed for non-forest use will qualify.

(2) The land has trees but is not capable of growing a commercial timber crop because of inaccessibility or adverse site conditions such as steep outcrops of rock, shallow soil on steep mountainsides, excessive steepness, heavily eroded areas, coastal beach sand, tidal marsh and other site or environmental conditions.

b. The following lands will meet the safe harbors for conservation purpose for the forestal use category.

(1) Land that a county, city or town has designated as real estate devoted to forestal use for purposes of use value assessment and taxation pursuant to Virginia Code § 58.1-3230.

(2) Land that is part of a forestal or agricultural and forestal district pursuant to Virginia Code § 15.2-4301 or §15.2-4401.

(3) Land that contains 20 acres or more of forest area that is adjacent to lands owned or managed by the United States Forest Service or the Virginia Department of Forestry.

(4) Land that contains less than 20 acres of forest area, provided that the land has greater than 50% canopy coverage and has been certified by the State Forester in consultation with the

local city or county arborist, if such a position exists within the locality, as important to the establishment and preservation of urban forests, pursuant to Va. Code § 10.1-1105.

c. Other lands will meet the conservation purpose for this category, if the applicant demonstrates the conservation value of the land for forestal use.

3. Natural Habitat and Biological Diversity. Land that contains significant natural habitats and/or ecosystems that support native plant and animal species and protect a relatively natural habitat of fish, wildlife, plants, or similar ecosystems, including natural areas and natural heritage resources as defined below.

a. For the purposes of this category, the following definitions apply.

(1) Natural area – any area of land, water, or a combination thereof, that retains or has reestablished its natural character, though it need not be completely natural and undisturbed; or which is important in preserving rare or vanishing flora, fauna, native ecological systems, geological, natural historical, scenic or similar features of scientific or educational value benefiting the citizens of the Commonwealth.³

(2) Natural heritage resource – The habitat of rare, threatened, or endangered plant and animal species, rare or state significant natural communities or geologic sites, and similar features of scientific interest, as identified by the Department of Conservation and Recreation’s Virginia Natural Heritage Program.⁴

(3) Significant natural habitat – Areas that represent high quality examples of a terrestrial community or aquatic community; caves, or areas which are included in, adjacent to, or which contribute to the ecological viability of a local, regional, state, or national park, nature preserve, wildlife refuge, wilderness area or other similar conservation area.⁵

b. The following lands will meet the safe harbors for conservation purpose for the natural habitat and biological diversity conservation category.

(1) Lands identified in writing by the Department of Conservation and Recreation’s Virginia Natural Heritage Program as necessary to protect natural heritage resources.

(2) Lands identified in writing by the Department of Game and Inland Fisheries as significant wildlife habitat, the protection of which would further implementation of the Comprehensive Wildlife Conservation Strategy (also known as Virginia’s Wildlife Action Plan).

(3) Undeveloped lands located within or adjacent to local, regional, state or federal lands managed primarily for their natural habitat and biological diversity.

c. Other lands will meet the conservation purpose for this category, if the applicant demonstrates the conservation value of the land for natural habitat and biological diversity.

4. Historic Preservation. Land that contains historic landmarks, including buildings, structures, objects, sites, and landscapes, that constitute historic, archaeological, and cultural

resources of significance as determined by the Virginia Department of Historic Resources. Visual or other access by the general public on a periodic basis is required to qualify under this category.⁶

a. The following properties will meet the safe harbors for conservation purpose for the historic preservation category.

(1) Properties individually listed in the Virginia Landmarks Register or the National Register of Historic Places.

(2) Properties that have been determined by the Virginia Department of Historic Resources to be eligible for listing in the Virginia Landmarks Register and/or recommended for listing in the National Register of Historic Places.

(3) Properties that are contributing resources within historic districts that are listed in the Virginia Landmarks Register and/or National Register of Historic Places.

(4) Any battlefield that meets the above standards and/or is listed by the Civil War Sites Advisory Commission Report of 1993, as amended.

b. Other properties may meet the conservation purpose for historic preservation if the applicant demonstrates the conservation value of the resource for historic preservation and provides documentation from the Virginia Department of Historic Resources to support such a claim.

5. Natural-Resource Based Outdoor Recreation or Education. Lands devoted to and available for natural-resource based outdoor recreation by, or education of, the general public. Access for substantial and regular use by the general public is required to qualify under this category.⁷

a. For the purposes of this category, land devoted to and available for natural-resource based outdoor recreation or education means parks, trails, greenways or similar recreational areas, open for public use, except any use operated primarily as a

business with intent for profit.⁸ Examples include a water area for the use of the public for boating or fishing, or a nature or hiking trail for the use of the public.⁹

b. Lands will meet the conservation purpose for this category if the applicant demonstrates the conservation value of the land for natural-resource based outdoor recreation or education, such as lands identified in the Virginia Outdoors Plan.

c. The following lands will not meet the conservation purpose for natural-resource based outdoor recreation or education:

(1) Lands where development (for example, buildings, roads, or parking lots) covers more than 15% of the site (paved trails and boardwalks are excluded from this calculation).

(2) Lands used for commercial recreational or amusement places, such as athletic fields or stadiums, driving ranges, golf courses, private beaches or pools, marinas, motor speedways, drag strips, or amusement parks.

(3) Private membership clubs, including golf or country clubs, private beaches or pools, or lands available for use only for residents of an associated development or subdivision (that is, not the general public).¹⁰

6. Watershed Preservation. Substantially undeveloped land that, by virtue of its size or by virtue of its location adjacent to rivers, streams, or other waterways, serves to protect water quality and/or quantity, hydrological integrity, riparian and/or aquatic habitat, or drinking-water supplies. Examples include floodplains, wetlands, riparian buffers, and groundwater recharge areas.

a. For the purposes of this category, the following definitions apply.

(1) Floodplains – Lands that are used for the passage or containment of waters, including the floodplains or valleys/side slopes of streams that are or may be subject to periodic or occasional overflow, such as floodplains identified by engineering surveys by the U.S. Corps of Engineers, the Federal Emergency Management Agency, or others. Floodplains also include coastal lowlands, such as bays, estuaries or ocean shores, subject to inundation by storms or high tides.¹¹

(2) Wetlands – Lands with characteristic hydric soils that are inundated or saturated by surface or ground water at a frequency or duration sufficient to support, and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions.¹²

(3) Riparian vegetated buffers – An area of land along a river, stream, wetland, or other waterway where natural vegetation is maintained and degradation by livestock is prevented.

(4) Groundwater recharge areas – Lands that, by virtue of a combination of topography, soils, and underlying geology are important to the recharge of local or regional groundwater supply and have been identified as such by local, state, or federal agencies.

(5) Sinking streams – Perennial or intermittent streams that sink into the underlying karst features.

b. The following lands will meet the safe harbors for conservation purpose for the watershed preservation category.

(1) Lands containing significant wetland acreage mapped on the U.S. Fish and Wildlife Service's National Wetland Inventory or other wetlands with delineations approved by the U.S. Army Corps of Engineers and/or the Virginia Department of Environmental Quality.

(2) Lands containing riparian buffers of at least 100 feet in width with substantial frontage on a perennial stream, wetland, or tidal waters.

(3) Lands adjacent to reservoirs used for public drinking water supplies or within 1,000 feet of a public drinking water well.

c. Other lands will meet the conservation purpose for this category if the applicant demonstrates the conservation value of the land for watershed preservation. For example, lands identified by a local, state, or federal agency as important groundwater recharge areas, sinkholes receiving channelized surface flow, sinking streams and springs, each with buffers of at least 35 feet, or lands located within an identified Special Flood Hazard Area mapped by the Federal Emergency Management Agency¹³ may meet the conservation purpose for this category.

d. Wetlands created, restored, or protected for the purposes of providing compensation pursuant to a regulatory requirement will not meet the conservation purpose for the watershed preservation category.

7. Preservation of Scenic Open Space. Lands that contain views, vistas, or characteristics that contribute to, and are compatible with, the scenic character or enjoyment of the surrounding landscape. Visual access to or across the property from public lands or publicly accessible water bodies or lands, including roads or trails, is required to qualify under this category.¹⁴

a. The following lands will meet the safe harbors for conservation purpose for the scenic preservation category.

(1) Lands adjacent to or visible from a State Scenic Highway, pursuant to Virginia Code § 33.1-64, or a Virginia Byway, pursuant to Virginia Code § 33.1-63.

(2) Lands adjacent to or visible from a federally designated Wild and Scenic River or American Heritage River in or adjacent to Virginia, or a State Scenic River pursuant to Virginia Code § 10.1-400.

(3) Lands adjacent to, or visible from public parks or public hiking, biking, or riding trails.

(4) Lands officially designated as scenic by a local, state or federal agency, provided that in each case the designating agency supplies a specific description of the lands or area so designated or recommended.¹⁵

b. Other lands will meet the criteria for this category if the applicant demonstrates the conservation value of the land for preservation of scenic open space. For example, lands adjacent to or visible from publicly accessible water bodies, public roads, or permanently protected lands provided that there is visual access for the public may meet the conservation purpose for this category. Where visual access to the property is not available, physical access may be used to demonstrate the conservation value of the land for preservation of scenic open space.

8. Conservation and Open Space Lands Designated by Local Governments. Lands that contain features, resources, values, or other attributes that a local government has officially designated as important to protect from inappropriate development so as to help shape the character, direction and timing of development in the area.

a. To qualify under this category, a local government must have adopted, in an official public ordinance or comprehensive plan, one of the following as worthy of protection:

(1) the specific property in question;

(2) a specific land area that contains the property in question;

(3) a designated class of land with specific, identified conservation value, defined by use, location, and attributes; or

(4) land that is used as a public garden such as a shared green space for the use of the entire community for raising flowers, vegetables, fruit, or other produce.

b. A general statement of conservation goals may support verification of this conservation purpose, but is not sufficient on its own to qualify under this category.¹⁶

B. Public Benefit

1. The terms of every deed of conservation easement submitted for DCR review must contain terms and restrictions that protect the conservation purpose(s) of the land in perpetuity.

2. The terms of every deed of conservation easement submitted for DCR review must prohibit intentional destruction or significant alteration of the conservation values of the protected property other than for general maintenance or restoration, or for activities deemed necessary for safety considerations.

3. The terms of every deed of conservation easement submitted for DCR review must ensure that the conservation value of the property will not be adversely affected by future subdivision or development of the property. To ensure the protection of conservation value, the easement must include the following provisions:

a. limitations on the number of permitted subdivisions on the property;

b. limitations on the amount of permitted new buildings and structures, either by placing a limit on the number of new buildings or structures and placing individual limits on the size of those buildings or structures, or by placing a limit on the collective footprint of all buildings and structures; or by some combination of those approaches;

c. restrictions on the location of permitted new buildings and structures, either through the use of building envelopes, no-build zones, or through required review and approval by the easement holder of the location of new buildings and structures prior to construction;

d. restrictions on the location of permitted new roads or access ways, either through use of pre-approved routes, no-road zones, or through required review and approval by the easement holder of new roads or access ways prior to construction (however, roads or access ways for public safety needs or for permitted uses such as farming or forestry may be constructed and maintained); and

e. limitations on alterations, demolition, or ground-disturbing activity that may impact cultural or natural heritage resources.

4. Donated property must not have been dedicated as open space in, or as part of, a residential or commercial subdivision or development, or dedicated as open space for the purpose of fulfilling density requirements to obtain approvals for zoning, subdivision, site plan, or building permits.

C. General Water Quality and Forest Management

For tax-credit applications submitted to DCR, the deed of conservation easement must ensure the protection of water quality and forest resources through the inclusion of the following terms and restrictions, where applicable.

1. Rivers, Streams, Wetlands, Springs, or Shorelines:

Maintaining proper riparian buffers is important for water quality protection. Scientific evidence indicates the wider the buffer, the greater the value for nutrient reduction and sediment removal,

as well as for wildlife diversity and habitat. Donors are encouraged to work with the easement holders to maximize the water-quality benefits provided by the donated property.

If the property contains or includes wetlands or frontage on a perennial stream or river, sinking streams (as defined above in section A.6.a.(5)), lakes, or tidal waters, the following minimum protections for those resources apply.

a. Conservation easement terms must require a riparian vegetated buffer (as defined above in section A.6.a.(3)) that is at least 35 feet wide, unless a wider buffer is required by local, state, or federal law or regulations.

b. To qualify as a buffer under these criteria, the deed of conservation easement must:

(1) prohibit within the buffer construction of new buildings or structures and roads (however, existing buildings or structures, reconstruction of documented historic buildings and structures on historic properties, and certain water-dependent structures such as docks are permissible, as are existing roads, limited stream crossings, and limited access points);

(2) restrict within the buffer other soil disturbance, including plowing (however, tree planting, forest management in accordance with Virginia's Forestry Best Management Practices for Water Quality Guide, archaeological investigations, and restoration, reconstruction, and maintenance of documented historic landscapes on historic properties are permissible);

(3) maintain within the buffer vegetative cover including forest, shrubs, or warm-season grasses. Mowed lawns or mowed or grazed pastures shall not constitute vegetative cover for the purposes of this provision. However, documented historic landscapes involving mowed lawns or pastures on historic properties may be restored or reconstructed and maintained, and control of non-native vegetation or removal of diseased trees is permissible.

(4) restrict regular livestock grazing within the buffer (however, limited designated points for crossing are permissible).

2. Land Used for Agricultural Production: If the property contains lands in agricultural use as defined above in section A.1, then the deed of conservation easement shall require implementation of a written conservation plan that stipulates the use of best management practices (such as proper nutrient management, utilization of cover crops, and stabilization of highly erodible lands). This plan shall be developed in consultation with the local Soil and Water Conservation District or the Natural Resources Conservation Service representative and shall be implemented as long as the lands remain in agricultural production.

3. Management Plans for Forestlands: If the property contains 20 acres or more of forest lands, as defined above in section A.2.a, then the deed of conservation easement shall require that the landowner has a current written forest management plan or Virginia Forest Stewardship Plan in place prior to the commencement of timber harvesting or other significant forest management activities. The deed of conservation easement shall require the forest management plan to include a provision that all forest management and harvesting activities be developed by, or in consultation with, the Virginia Department of Forestry, or be consistent with Virginia's Forestry Best Management Practices for Water Quality Guide.

¹ 2 Virginia Administrative Code (VAC) 5-20

² 4VAC10-20

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³ Virginia Code § 10.1-209

⁴ Virginia Code §10.1-209

⁵ 26 Code of Federal Regulations (CFR) §1.170A-14(d)(3)

⁶ 26 CFR §1.170A-14(d)(5)

⁷ 26 CFR §1.170A-14(d)(2)

⁸ 4VAC5-20-20(A)

⁹ 26 CFR §1.170A-14(d)(2)

¹⁰ 4VAC5-20-20(A)

¹¹ 4VAC5-20-20(C)

¹² Virginia Code § 58.1-3666

¹³ 12 CFR § 339.2

¹⁴ Virginia Code § 58.1-3666

¹⁵ 4VAC5-20-20(F)(3)

¹⁶ 26 CFR §1.170A-14(d)(4)